

REMARKS

Applicant has carefully reviewed the Final Office Action mailed on June 28, 2010, 2010. Applicant respectfully traverses (and does not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. With this amendment, claim 15 is amended into independent form. No new matter is added. Claims 1, 3-5, and 10-16 are presented for examination.

Allowable Subject Matter

Claims 15-16 are not rejected in the Office Action and are presumed to be allowable. Accordingly, claim 15 is amended into independent form and is now believed to be in condition for allowance. Because claim 16 depends from allowable claim 15, it is also believed to be in condition for allowance.

Claim Rejections Under 35 U.S.C. §103

Claims 1, 3-5, and 10-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zadno-Azizi et al. in U.S. Patent No. 6,022,336 in view of Cragg et al. in U.S. Patent No. 6,146,373 in view of Banka in U.S. Patent No. 4,299,226. Applicant respectfully traverses the rejection.

Claim 1 recites that a portion of the outer wall surface of the second tubular member is bonded to a portion of the inner wall surface of the first tubular member.

In the Response to Arguments section, the Office Action indicated that “[t]he examiner does not assert that Zadno-Azizi teaches this feature, and Cragg has been relied upon to remedy this deficiency.”

Figure 9 of Cragg et al., which has been relied upon in the Office Action, does not appear to clearly show an outer wall surface of a second tubular member that is bonded to a portion of an inner wall surface of a first tubular member. Instead, Cragg et al. appears to disclose a multi-lumen catheter where the two lumens are staggered (see, for example, column 11, lines 25-29). It is not clear from Figure 9 that Cragg et al. has disclosed two tubular members at all, let alone an outer wall surface of a second tubular member that is bonded to a portion of an inner wall surface of a first tubular member. Indeed, it would appear as though the multi-lumen catheter 80

of Cragg et al., if it was formed from two tubular members, would involve the bonding the outer wall surface of one tubular member with the outer wall surface of the other tubular member. Therefore, Cragg et al. does not appear to remedy the deficiencies of Zadno-Azizi et al.

Furthermore, Cragg et al. indicates that the lumens defined by the multi-lumen catheter 80 can be moved (e.g., their longitudinal positions can be adjusted) so that if each of the lumens was interpreted to be a “tubular member” (which is an interpretation that is expressly not conceded by Applicant), the cited art appears to show the desirability of not bonding together the tubular members. Because Cragg et al. teaches the desirable of not bonding together the tubular members, Cragg et al. teaches away from bonding the tubular member in the manner set forth in the claims.

The Office Action referred to this feature (that the longitudinal positions of the lumens 82a/84a in Cragg et al. can be adjusted) and indicated that “[t]he embodiment of Fig. 9 may include means for adjusting the longitudinal position of one of the lumens with respect to the other lumen” and that because of this “the device [of Cragg et al.] may be used in the same manner as that of Zadno-Azizi.” (emphasis added). Because of this, the claimed invention was deemed to be obvious. Applicant respectfully disagrees.

Applicant’s interpretation of the remarks in the Office Action is that:

(1) the Office Action has conceded that the operation of the device of Zadno-Azizi involves the longitudinal movement of the various catheters (e.g., 20, 22, 24) disclosed therein relative to the other (in other words, catheters 20/22/24 are not longitudinally fixed relative to one another),

(2) that Cragg et al. teaches that the lumens 82a/84a may also be movable relative to one another such that the teachings of Cragg et al. can be combined with Zadno-Azizi et al. (e.g., due to their similarity in operation), and

(3) that somehow combining these two moveable structural relationships renders a claim reciting that a portion of the outer wall surface of the second tubular member is bonded to (e.g., fixed to) a portion of the inner wall surface of the first tubular member is obvious.

Based on this logic, we simply do not understand how the rejection can be maintained because the argument set forth in the Office Action appears to suggesting that the common ability of the structures to be moveable relative to one another renders obvious a claim to structures that are bonded to one another. Consequently, Applicant respectfully submits that the cited art cannot render claim 1, or those claims depending therefrom, obvious.

Finally, the Office Action additionally applied Banka. Bank does not appear to overcome the shortcomings of Zadno-Azizi et al. and Cragg et al. Consequently, Applicant respectfully submits that claim 1 is patentable over the combination of Zadno-Azizi et al., Cragg et al., and Banka, to the extent that such a combination is even possible. Because claims 3-5 and 10-14 depend from claim 1, they are also patentable for the same reasons as claim 1 and because they add significant elements to distinguish them further from the cited art.

Conclusion

Reconsideration and further examination of the rejections are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,

Date: _____

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